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No. 87-45

IN THE

Supreme Court of the United States

October 1987 Term

JAMES B. LUND and INGRID LUND,
Appellants,

v.

COUNTY OF HENNEPIN,
Appellee.

ON APPEAL FROM THE SUPREME COURT OF MINNESOTA

MOTION OF APPELLEE COUNTY OF HENNEPIN TO DISMISS OR AFFIRM

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QUESTIONS PRESENTED

The question presented by this motion is whether a challenge to the constitutionality of the homestead classification in Minnesota's ad valorem real estate tax scheme presents a substantial federal question.

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The appellee moves the Court to dismiss the appeal herein or, in the alternative, to affirm the judgment of the Supreme Court of Minnesota on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

STATE STATUTE INVOLVED

This appeal raises the question of the validity of a provision of the Minnesota property tax laws (Minnesota Statute, 1984, Section 273.13, Subdivision 7).

This statute provides, in relevant part, that real estate used as a homestead is valued and assessed at the following rates: the first $30,000 of market value is valued and assessed at 17 percent; the next $30,000 of market value is valued and assessed at 19 percent; and the remaining market value is valued and assessed at 30 percent. The property tax to be paid on a homestead is reduced by fifty-four percent of the tax imposed on the first $67,000 of the market value. The amount of the reduction shall not exceed $650.

STATEMENT OF FACTS

Appellants own homestead property in Minneapolis, Minnesota. This property was valued by the County Assessor at $148,800 as of January 2, 1983. Their property was taxed according to the provisions of Minnesota Statute, 1984, Section 273.13, Subdivision 7. The Appellants challenged this taxation in a Petition to the Minnesota Tax Court. The Appellants contended that Minnesota Statute, 1984, Section 273.13, Subdivision 7 did not levy taxes uniformly on the same class of subjects in violation of the equal protection clause of the federal constitution. This contention was rejected in an order filed by the Minnesota Tax Court on October 30, 1985. Upon appeal to the Minnesota Supreme Court, the decision of the lower court was affirmed. 403 N.W.2d 617 (Minn. 1987).

ARGUMENT

It is well established that "[w]here taxation is concerned and no specific federal right apart from equal protection, is imperiled, the states have large leeway in making classifications and drawing lines which in their judgment produce reasonable systems of taxation." *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356, 359, 93 S.Ct. 1001, 1003, 35 L.Ed. 2d 351, 354 (1973). "A century of Supreme Court adjudication under the Equal Protection Clause affirmatively supports the application of the traditional standard of review, which requires only that the State's system [of taxation] be shown to bear some rational relationship to legitimate state purposes." *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 40, 93 S.Ct. 1278, 1300, 36 L.Ed. 2d 16, 47 (1973). The purpose of the subject legislation has been examined by the Minnesota Supreme Court. The Court stated:

> The classification . . ., insofar as it is based upon use, is in line with the policy of both the state and nation as evidenced by previous legislation enacted for the benefit of and relief of occupant owners of homes. Such classification has a tendency to encourage the use of land for homestead purposes and is in furtherance of a sound public policy. The stability of government is promoted thereby. The obvious object of the legislature was to provide for the necessary funds with which to carry on governmental functions without placing too heavy a burden on real estate used by the owner as his home. The difference in use of the property has a fair and substantial relation to that object of the legislature, and there is no discrimination between persons in similar circumstances; it operates equally upon all coming within the respective classes.

Apartment Operator's Ass'n v. City of Minneapolis, 191 Minn. 365, 369, 254 N.W. 443, 445 (1934). This Minnesota statute serves the legitimate goal of promoting homestead ownership. It is a statute that operates equally on all homeowners within the State of Minnesota. The scheme of taxation created by this statute is well within the parameters of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The lengthy history of Supreme Court adjudication on the principles involved indicate that Appellant's challenge to this statute presents no substantial federal question. *Kahn v. Shevin*, 416 U.S. 351, 94 S.Ct. 1734, 40 L.Ed. 2d 189 (1974).

CONCLUSION

Wherefore, Appellee respectfully submits that the question upon which this case depends is so unsubstantial as not to need further argument, and appellee respectfully moves the Court to dismiss this appeal, or, in the alternative, to affirm the judgment entered in the cause by the Supreme Court of Minnesota.

Respectfully submitted,

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